

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FILED

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U.S. BANKRUPTCY COURT  
E.D. MICHIGAN - DETROIT

In Re:

Chapter 9

CITY OF DETROIT, MICHIGAN

Case No. 13-53846

Debtor,

Hon. Steven W. Rhodes

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**OBJECTING CREDITOR KRYSTAL A. CRITTENDON'S  
OBJECTIONS TO CONFIRMATION OF THE CITY'S FOURTH AMENDED PLAN OF ADJUSTMENT**

I, Krystal A. Crittendon, am a creditor and a member of Class 11 and hereby file this Objection to Confirmation of the City of Detroit's ("The City's") Fourth Amended Plan of Adjustment (the "Plan") for the following reasons:

1. City of Detroit Emergency Manager ("EM"), Kevyn D. Orr, does not and has never had authority to file for Chapter 9 bankruptcy on behalf of the City of Detroit because: (1) no emergency manager statute existed at the time Mr. Orr was purportedly appointed Emergency Manager; (2) even if a law had existed, Mr. Orr would not have been grandfathered in as an Emergency Manager because his alleged contract with The City had expired at the time P.A. 436 became effective; (3) a municipality cannot be forced into an involuntarily bankruptcy pursuant to Chapter 9 of the United States Bankruptcy Code.
2. The Detroit EM recently was forced to admit that there was a **\$15 million dollar** accounting error in The City's pension calculations; however, such error was only admitted when a court-appointed expert complained to the Court that The City would not give her the data and other information it relied upon to make the assessments made in the Plan(s) of Adjustment. This **\$15 million dollar** calculating error calls into question the reliability of all of the numbers and calculations relied upon by the City in determining that the General Retirement System ("GRS") and Police and Fire Retirement System ("PFRS") are underfunded and to what degree such underfunding may exist.
3. The Michigan Constitution prohibits the City of Detroit from impairing or reducing the pensions of Detroit retirees.
4. A "YES" vote does NOT guarantee that the City of Detroit will not increase the cuts to the pensions by a higher percentage after the Plan is approved. For instance, as it relates to the

GRS, the Plan of Adjustment proposes that if pensioners in that system vote "Yes" (to approve the Plan), they will receive a 4.5% reduction in their pensions, **subject to other "preconditions."** If they vote "NO" (to disapprove The Plan), The Plan proposes that the GRS pensioners receive a 27% cut; however, a footnote states that even if the GRS pensioners vote "YES," they can still receive the same amount of a reduction they would have received if they voted "NO," if any of the other funding parties do not make their promised contribution. A "YES" vote gives the City a blank check to do whatever it deems necessary in the future with respect to making cuts to the pensions.

5. A vote "YES" to approve the Plan also serves to give up all rights to appeal any issue related to the bankruptcy, even if it is later determined that the lawyers and auditors who prepared The Plan were wrong or misleading in the financial assessments, estimations, analysis and projections. The Notice regarding The Plan provides: "If you vote to accept the Plan: You may be giving up any right you may have to sue the State of Michigan, the City or other entities specifically protected by the Plan releases, to try to recover the full amount of your pension...." I object to the confirmation of the Plan because I would never voluntarily give up my right to appeal or object to the unconscionable actions being taken with respect to the City's bankruptcy.
6. The City of Detroit, through the law firm Jones Day (the firm which Detroit Emergency Manager Kevyn Orr worked for before he was appointed EM AND to which he will return as a Partner when he leaves Detroit) has not provided the data and numbers it relied upon to conclude that either the GRS or the PFRS are underfunded.
7. The average City of Detroit pension is only \$19,000.00. The GRS and PFRS **are not** the reason the City is allegedly suffering financial problems significant enough to qualify it for Chapter 9 bankruptcy.
8. Pensions paid by the GRS and PFRS **are not** future monetary gifts bestowed upon City of Detroit retirees; they were part of the compensation packages offered to City of employees who worked for lower salaries without sufficient merit and cost of living increases, under the promise that they would receive a modest retirement payment upon retiring from the City of Detroit.
9. The City's claim that the GRS and PFRS comingled pension money with money City employees voluntarily contributed to the Annuity Savings Fund ("ASF") and improperly paid out excess earnings, even if true, has absolutely no bearing on whether the City has a deficit in its general fund, which is what allegedly qualified the City for Chapter 9 bankruptcy. This is especially true since the City has already decided that it is no longer going to contribute to the GRS and PFRS after July 1, 2014.

10. Moreover, beginning July 1, 2014, City employees cannot opt out of the new hybrid pension system the City has created, which is a taking of the employee's funds without sufficient due process.
11. The votes are being counted in El Segundo, CA . Given the significance of what is at stake, the Bankruptcy Court should have required that the votes be counted locally in an effort to ensure that the creditors and parties in interest would be able to observe the vote count.
12. Pensioners are being asked to enter into an Adhesion Contract with The City. An Adhesion Contract is a contract in which one party has all the bargaining power and uses it to write the contract primarily to his or her own advantage; it is NOT freely bargained. Adhesion Contracts are unconscionable because they are so unfair to a weaker party that a court will refuse to enforce them. Because a "YES" also gives up all rights of appeal, then the pensioners would be foreclosed from ever asserting that the agreement is an Adhesion Contract and is, therefore, enforceable.
13. The State of Michigan has already demonstrated that it does not deal honestly and fairly with the City of Detroit and its residents when it reneged on a revenue sharing deal entered into when Dennis Archer was Mayor of Detroit. The State cannot, therefore, be trusted to fulfill its obligations under the "Grand Bargain."
14. The money being offered by the State as part of the alleged "Grand Bargain" is money from a class action lawsuit settlement between the State of Michigan and the tobacco industry to which the City of Detroit should have already been entitled, had the State of Michigan chosen to equitably and morally give the settlement proceeds to Michigan cities based on the proportional ill-effects caused by the tobacco industry to individual cities. It is not new state taxpayer dollars which are being appropriated, as the "Grand Bargainers" are attempting to characterize the revenue.
15. No one has explained how \$816 million in funding from outside sources (the non-profit corporation that operates the DIA, charitable foundation and the State of Michigan) plugs a hole which the EM initially said was \$18 BILLION dollars , then later had to admit was only approximately \$6 billion dollars. Nonetheless, the disparity between the alleged pension shortfall and the amount of money being contributed is too large to provide any degree of comfort with respect to whether the pension cuts are necessary, at all.
16. It was recently revealed in a leaked confidential memorandum that the Detroit EM's proposal, which will transfer operation (and potentially ownership) of the Detroit Water and Sewerage Department ("DWSD") to an Authority or a private entity, has undervalued DWSD by 75%. The memo, which was presented to the court by an Officer appointed by the

federal government to review The Plan, concludes that the Detroit EM is attempting to sell DWSD to Detroit's suburbs for only **25%** of its value. This undervaluation raises questions concerning the entirety of the EM's contentions which serve as the basis for The Plan of Adjustment.

17. Detroit's EM, who has already demonstrated pension calculation errors and undervaluation of the DWSD, has also commissioned the valuation of the art at the Detroit Institute of Art "DIA"). The fact that the Detroit EM, whose reputation for accuracy has already been proved to be questionable, has commissioned the valuation is troubling. Moreover, the valuation of the DIA art is so broad, somewhere between \$400 million and \$800 million dollars, that it is practically useless.

For the foregoing reasons, I, Krystal A. Crittendon, hereby object to the Bankruptcy Court's confirmation of the City of Detroit's Fourth Amended Plan of Adjustment.

Respectfully submitted,



/s/ Krystal A. Crittendon

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DATED: June 29, 2014

CERTIFICATE OF SERVICE

I, Krystal A. Crittendon, do hereby certify that the foregoing Objecting Creditor Krystal A. Crittendon's Objection to Confirmation of the Fourth Amended Plan of Adjustment was filed and served via delivery to the Clerk of the United States Bankruptcy Court on June 30, 2014.